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Justice Delayed and Justice Denied

Greater oversight needed on Holocaust-era insurance claims panel.

By Rep. Henry A. Waxman

Holocaust survivors have been waiting decades to reclaim Holocaust-era insurance policies. Unfortunately, the findings of an ongoing congressional investigation I initiated indicate that their wait is far from over.

In 1998, the International Commission on Holocaust-Era Insurance Claims (ICHEIC) was set up to settle outstanding policies issued to victims of the Holocaust as quickly as possible. In November 2001, the House Government Reform Committee conducted an oversight hearing on the work of the ICHEIC, and the findings were disheartening.

ICHEIC revealed that it has spent over \$40 million in salaries, administrative expenses and outreach, while paying barely \$12 million to survivors and their families. Of the 77,800 claim applications received by ICHEIC, only 758 resulted in offers, yielding an approval rate of only 1 percent. In many instances, survivors and their families cannot name the insurance company that provided the Holocaust-era insurance. But even among those applications that name specific companies, the compensation rate was less than 10 percent.

The main cause of the failure to resolve claims appears to be the actions — and the inaction — of insurance companies. The majority of the companies that have agreed to the ICHEIC process have not lived up to their obligation to disclose policyholder lists. The ICHEIC member companies also appear to have wrongfully rejected, undervalued or left unanswered the claims of many survivors. And the majority of German insurance companies have refused to even join the ICHEIC process.

I was surprised and disappointed by the response of ICHEIC Chairman Lawrence Eagleburger during the hearing to questions regarding the administration of ICHEIC itself. When I pressed Eagleburger for more information about ICHEIC's \$40 million in expenditures on salaries, office space, meetings and outreach, he became angry and said, "I'm not going to sit here and spend my time to tell you something that is frankly none of your business."

It would be deeply troubling if ICHEIC could operate without oversight, as its existence is central to the current United States policy on Holocaust-era insurance claims.

Under a July 2000 agreement with Germany, the United States agreed to urge U.S. courts to dismiss all cases involving Holocaust-era claims against German companies, including insurance claims that come under the scope of ICHEIC, for all companies that contribute to a \$4.4 billion fund established for the settlement of these claims. A similar agreement was signed with Austria. However, the U.S. government's determination of whether to intervene in an insurance case does not take into account whether or not a company has abided by ICHEIC's rules and standards. Thus, if the ICHEIC system isn't working, Holocaust survivors — many of whom are nearing the end of their lives — may have no meaningful recourse for their claims.

Take the example of Judith Steiner, a Los Angeles area survivor who was only 7 years old when her

family was deported from Hungary to a series of concentration camps. After the war ended, she was miraculously able to recover some of her family's belongings. She submitted a claim to ICHEIC with a copy of a premium payment her grandfather paid to a subsidiary of the German insurer Allianz. The company's insignia was on the page, yet she was rejected because "no evidence of contractual relationship could be found."

The rejection of Steiner's claim was in clear violation of ICHEIC rules, but it wasn't until a year later, after I raised her case at the hearing, that the company acknowledged "a clerical oversight" and the firing of the claim-handler who made the mistake.

Without proper oversight and monitoring to catch these errors, many Holocaust survivors like Steiner, face a Catch-22: They could file an appeal, but ICHEIC rules require them to waive their right to file suit against the company and the appeal decision would be final. Even if they did go to court, the U.S. government would ask for the dismissal of their case.

This is the worst kind of unfairness. It is justice delayed and justice denied.

In light of the current U.S. policy, it is entirely Congress' prerogative to make sure that ICHEIC is operating efficiently and effectively.

The hearing in November sparked several important developments. During the hearing, Eagleburger announced a plan to institute a policing commission to make sure that companies are following ICHEIC rules. I look forward to seeing this system swiftly put into place. In January, the deadline for submitting claims was extended from the original Feb. 15 deadline through Sept. 30, 2002.

While I am still concerned that the deadline extension will make little difference unless a comprehensive list of Holocaust-era policyholders is published, I am cautiously optimistic that more names will be forthcoming. I will also keep working for the passage of H.R. 2693, the Holocaust Victims Insurance Relief Act, legislation I introduced to require all insurance companies operating in the United States to disclose the names on policies issued in Nazi Europe. I am determined to do everything necessary to make sure that ICHEIC is held accountable to the public and to the individual survivors who have been waiting so long for answers.

Given the concerns that have been raised about insurance companies' commitment to the ICHEIC process, it is time for the United States to explore new forms of leverage that will compel the insurance companies to live up to their obligations. Otherwise, many Holocaust survivors may never see justice in their lifetimes.